

MEMORANDUM

IT:P;TR  
KVN-1-KB

Section 116(j) of the Code excludes from gross income (1) \* \* \*, (2) \* \* \*, and (3) amounts received as cost-of-living allowances by other civilian officers or employees of the United States Government stationed outside continental United States, in accordance with regulations approved by the President.

The above-mentioned type of allowance has reference to cost-of-living allowances of a noncompensatory nature such as those authorized by section 204 of the Independent Offices Appropriation Act of 1949 (P.L. 491, 80th Cong.), which has been extended by section 303 of the Independent Offices Appropriation Act, 1950 (P.L. 266, 81st Cong.), and by the regulations promulgated in accordance with Executive Order 10,011, dated October 22, 1948 (13 F.R. 6263), entitled the "Standardized Government Civilian Allowance Regulations (Foreign Areas)."

For convenience, the inquiries presented in the memorandum dated October 6, 1950, are restated and answered as follows:

(a) Are the cost-of-living and post allowances indicated above those allowances specified in Executive Order 10,011?

This question is answered in the affirmative.

There are four types of cost-of-living allowances: post allowances, special post allowances, transfer allowances, and separation allowances.

(b) Are the allowances indicated above proper items for exclusion from gross income?

Such cost-of-living allowances are excludable both from gross income of the employees and from wages subject to the withholding of income tax by the employer.

(c) If the allowances indicated above are proper items for exclusion from gross income, what supporting proof is required?

The taxpayer should furnish a statement by the disbursing officer to the effect that such allowance was paid as a cost-of-living allowance in accordance with the Standardized Government Civilian Allowance Regulations (Foreign Areas).

- 2 -

Care should be taken to distinguish the post differential payable under section 207, P.L. 491, 80th Congress, as amended by section 104, P.L. 862, 80th Congress, and Executive Order 10,000, dated September 16, 1948, 13 F.R. 5453, from the cost-of-living allowance referred to in this memorandum. Such differential whether paid as a Territorial cost-of-living allowance or a Foreign or Territorial post differential is not excludable from gross income of the recipient under the provisions of section 116(j)(3) of the Code.